

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of the 47 CFR Part 97)	
Amateur Radio Service and/or)	RM - 10521
Amendment of the 47 CFR Part 95)	
Subpart B Family Radio Service)	
to Permit Non-Amateur Non-United States)	
Resident Foreign Nationals Access to the)	
446.0 - 446.1 MHz Band)	

REPLY COMMENTS

Submitted by:

**Dr. Michael C. Trahos, D.O., NCE, CET
4600 King Street, Suite 6K
Alexandria, Virginia 22302-1249**

September 24, 2002

I.

INTRODUCTION

1. Before the Federal Communications Commission (Commission) is a Petition for Rulemaking (**PETITION**), RM-10521, requesting amendment of the 47 CFR Part 97 Amateur Radio Service (ARS) and/or amendment of 47 CFR Part 95 Subpart B Family Radio Service (FRS) rules to allow visiting/transient/tourist non-amateur non-United States (US) resident foreign nationals access to certain frequencies within the 446.0 - 446.1 MHz band for the use of license exempt International Telecommunications Union (ITU) Region 1 Conference of European Posts and Telecommunications Administrators' (CEPT) European Radiocommunications Committee (ERC) of Decisions adopted [ERC/DEC/(98) 25¹, 26² and 27³] and European Telecommunications Standards (ETS) Institute (ETSI) approved [technical standard ETS 300 296]⁴ 446 MHz Personal Mobile Radio (PMR 446) service two-way transceivers.

II.

PETITIONER QUALIFICATIONS

2. Petitioner is an unlimited licensed, board certified and actively practicing General Medicine/Geriatric Medicine/Family Practice Physician and Surgeon. Commenter holds the academic faculty appointment of Assistant Clinical Professor, Department of Family Medicine, Georgetown University School of Medicine. Petitioner holds the current positions of Virginia [State] Osteopathic Medical Association (VOMA) Delegate and Delegation Vice-Chairman to the [National] American Osteopathic [Medical] Association (AOA) House of Delegates. Petitioner has held the previous positions of President (CY'94) – Alexandria (VA) Medical Society, Vice-Councilor (EY'95) - Medical Society of Virginia 8th U.S. Congressional District, Chairman – AOA Technology and Health Care [Telemedicine] Task Force, and Executive Member - AOA Council on Federal Health Programs.

3. Petitioner was selected/elected and currently serves as the Special Emergency Radio Service Representative – RPRC, and Medical Profession Representative - Technical Committee, of the National Public Safety Planning Advisory Committee's (NPSPAC) Region-20 [State of Maryland, Washington, DC, Northern Virginia] 821 MHz Public Safety Regional Plan Review Committee (RPRC), for the development and implementation of a Public Safety National/Regional Plan (GN Docket No. 90-7) for the use of the 821-824/866-869 MHz bands by the Public Safety Services pursuant to the Report and Order in GN Docket No. 87-112. Petitioner has previously served as Chairman - Legislative/Regulatory Affairs, Region-20 821 MHz Public Safety from 1990 to 2000.

4. Petitioner is also a First Class Telecommunications Engineer, certified by the National Association of Radio and Telecommunications Engineers (NARTE), possessor of a First Class Certificate of Competency, issued by the Association of Public Safety Communications Officials, Inc. - International (APCO), and a Fellow of The Radio Club of America. Petitioner has over 25 years experience in the telecommunications field with many of these years spent actively participating in Commission proceedings.

5. Petitioner is Commission licensed in the Amateur Radio (ARS), Business Radio (BRS), General Mobile Radio (GMRS) and Special Emergency Radio (SERS) services. Petitioner has taken examination for and has been issued the Commission's commercial GMDSS Radio Maintainer, GMDSS Radio Operator, and General Radiotelephone Operator Licenses. It is with having the above extensive expertise in dealing with personal, business, medical and emergency/public assistance communications matters that this Petitioner is qualified to submit the following timely filed⁵ **REPLY COMMENTS** in response to comments submitted to this **PETITION**.

III.

REPLY COMMENTS

6. Voluminous supportive and opposition comments have been received in response to the **PETITION**. Supportive comments have been conditional and unconditional. Opposition comments have been constructively and destructively critical.

7. The vast majority of the opposition comments filed were clearly submitted without first reading the **PETITION** in its entirety. These brief comments are best categorized as “knee-jerk” reactions without thoroughly understanding the issue. Some supportive comments also concurred with this assessment. Steven Karty¹, N5SK, supports the **PETITION** “because it makes good sense.”⁶ He states that “[m]ost of the opposing comments seem to use backwards reasons to oppose the petition. I saw no practical reasons to oppose the petition.”⁷ Robert A. Davisson commented that “[a]ny opposition from the USA Amateur community is just “NIMBY” (Not In My Back Yard) [*Parenthesis added*]. Actual usage will probably be so limited they couldn’t be found if you went looking for them, but the attitude and the courtesy will be well received. Bravo!”⁸

8. What is most regrettable is that a several commenters, due to their inability to find justification in opposing the **PETITION**, elected instead to make destructively critical personal attacks against this Petitioner. Such individuals serve no purpose other than to give the entire amateur community a “bad name”. As the proverbial expression goes, “if you do not have anything good (constructive) to say (either in support or opposition), then do not say it at all.”

¹ Steven Karty is a graduate electrical engineer, an Extra Class amateur radio operator since 1960, and a Life member of the ARRL.

9. A large number of these opposition commenters have expressed the misconception that the **PETITION** is trying to somehow “take-away” the 446.0 - 446.1 MHz band from amateurs, citing the reallocation of the former 11-meter amateur radio band to citizens band (CB) radio as case in point. These assertions are absolutely false! The **PETITION** is in no way requesting the complete reallocation of any amateur radio spectrum. It simply requests the permitted secondary use of this band by European/foreign transient tourists who come to and leave with their PMR 446 radios upon visiting the United States.

10. Opposition commenters have implied that harmful interference will occur to 440 MHz amateur repeater operations. Philip E. Galasso, in his comments, gives a specific list of repeaters (six located in California, one in Brooklyn, New York, and one in Camano Island, Washington) that he claims will be subjected to harmful interference from PMR 446 radios.⁹ But the true likelihood of harmful interference to these repeaters is essentially nonexistence.

11. Galasso’s list of repeaters are all currently continuous tone controlled squelched (CTCSS). The probability of a PMR 446 radio, first, being in close enough proximity to one of these repeaters and then, second, being on the same CTCSS tone is so remote, that the possibility of nuisance interference, let alone any harmful interference, would be extremely rare.

12. What is even more interesting is that if interference is to occur from foreign FRS-type radios, then 440 MHz repeater operators should be much more concerned about interference from Korean 0.5-Watt ERP FRS radios. These Korean FRS radios use main channel, non-offset, frequencies in the 448-449 MHz band, the band use extensively for

70 cm repeater inputs. Undoubtedly, these 448 MHz FRS radios must have already been, and are currently used, by Korean visitors to the U.S., especially to California. Yet, to this Petitioner's knowledge, there have been no reported complaints, from 440 MHz amateur repeater operators, of any Korean 448 MHz FRS radio interference.

13. Several commenters have expressed concern about interference to their 446.0-446.1 MHz simplex operations. In response to these concerns, a commenter from Forney, Texas wrote: "I support the allocation of 446.0-446.1 for use by visitors from Europe and the United Kingdom with Personal Mobile Radio (PMR 446) transceivers. Two reasons: It allows for the possibility of hearing a visitor who may be in trouble; and I see no major interference problems that would occur with such low output power."¹⁰ This Petitioner concurs with this commenter's assessment.

14. Several commenters have expressed the view that PMR 446 users should purchase FRS radios during their visit to the U.S. and then, supposedly, never use them again upon return to their home country. This Petitioner disagrees. The disagreement is also expressed in the comments of Dr. Eugene P. Kaiser, Ph.D., when he states: "In addition to frustrating foreign visitors by "forcing" the purchase of FRS transceivers in lieu of visitors using their PMR 446 radios, the interference caused by these radios is virtually minimal due to their limited range, especially in metropolitan areas. If mutual interference were experienced the PMR 446 radio user will switch frequencies to avoid the interference."¹¹

15. In opposition comments filed by the ARRL¹², this Petitioner notes that many of the ARRL's issues have already been addressed above. These shall not be reiterated. However, the ARRL does bring forth the important statutory issue that amateur radio use

of the 440 MHz band is secondary to the Federal Government that is primary. This Petitioner acknowledges this statutory concern and notes that the Commission has the ability to address this legal matter and permit the secondary use of PMR 446 radios in the U.S., if it so chooses upon the issuance of a **NPRM** in response to this **PETITION**.

16. This Petitioner takes exception to the ARRL's statement that this **PETITION** is misguided.¹³ This **PETITION** addresses an important issue that cannot, and should not, be simply ignored. This Petitioner agrees with the ARRL¹⁴, and other commenters¹⁵, that this **PETITION** "reveals the problems that arise from the failure to harmonize allocations internationally. Had the United States and CEPT taken steps to harmonize FRS channels internationally prior to creating the FRS in the first place, the problems reasonably noted by the petitioner might have been avoided." What is important to note is that the CEPT, for ITU Region 1, only found the 446.0-446.1 MHz band to be available for PMR 446 FRS harmonization throughout Europe. Ironically, and unless can be shown otherwise, the only spectrum seemingly available to create a harmonized international FRS service that would include the United States, as suggested by the ARRL, would be the current amateur 446.0-446.1 MHz band.

IV.

CONCLUSION

17. Before the Commission is the **PETITION**, RM-10521, requesting amendment of the 47 CFR Part 97 Amateur Radio Service (ARS) and/or amendment of 47 CFR Part 95 Subpart B Family Radio Service (FRS) rules.

18. This Petitioner is proposing a limited and restricted, license exempt, secondary use of the 446.0 - 446.1 MHz band by visiting/transient/tourist non-amateur non-US resident foreign nationals, using eight (8) - (+/-) 0.0625 MHz channel offset, 0.5 watt ERP, PMR 446 [FRS type] transceivers, for which existing 47 CFR Part 97 rules against the use of such PMR 446 radios in the United States are essentially unenforceable.

19. This **PETITION** will have an extreme *de minimis* impact on existing ARS operations. These **REPLY COMMENTS** confirm this *de minimis* impact and address the concerns of opposition commenters to this **PETITION**.

20. This Petitioner therefore respectfully requests the expedient issuance of a **NPRM** in response to this **PETITION**.

Respectfully submitted,

[s] ***Michael C. Trahos, D.O., NCE, CET***

Dr. Michael C. Trahos, D.O., NCE, CET

MCT/mct

V.

CERTIFICATE OF SERVICE

I, Michael C. Trahos, do hereby certify that a copy of the above **REPLY COMMENTS** have been sent by first class United States mail to the parties listed below.

Booth, Freret, Imlay & Tepper, P.C.
Christopher D. Imlay, Esquire
7900 Wisconsin Avenue, Suite 304
Bethesda, MD 20814-3628

Dr. Eugene P. Kaiser, Ph.D., MSEE, BSEE
2508 Gold Cup Lane
Reston, VA 20191-4220

Mr. Steven Karty
8709 Southern Pines Court
Vienna, VA 22182

Mr. Nickolaus E. Leggett
1432 North Square, Apt. 2A
Reston, VA 20190-3748

Philip E. Galasso
131 Stafford Forge Road
West Creek, NJ 08092-9327

Robert A. Davisson
1169 Cane Mill Lane
Bradenton, FL 34212-2638

Amateur Radio Operator
17174 Diamond Acres
Forney, TX 75126

Respectfully,

|s| ***Michael C. Trahos, D.O., NCE, CET***

Dr. Michael C. Trahos, D.O., NCE, CET

VI.

ENDNOTES

-
- ¹ **ERC/DEC/(98)25**, ERC Decision of 23 November 1998 on the Harmonised Frequency Band to be Designated for PMR 446. [See also <http://www.ero.dk/doc98/official/Word/DEC9825E.DOC> and/or <http://www.ero.dk/doc98/official/pdf/DEC9825E.PDF> and/or <http://www.ero.dk/doc98/official/zip/DEC9825E.ZIP>.]
- ² **ERC/DEC/(98)26**, ERC Decision of 23 November 1998 on Exemption from Individual Licensing of PMR 446 Equipment. [See also <http://www.ero.dk/doc98/official/Word/DEC9826E.DOC> and/or <http://www.ero.dk/doc98/official/pdf/DEC9826E.PDF> and/or <http://www.ero.dk/doc98/official/zip/DEC9826E.ZIP>.]
- ³ **ERC/DEC/(98)27**, ERC Decision of 23 November 1998 on Free Circulation and Use of PMR 446 Equipment in CEPT Member Countries Enlarging the Field of Application of ERC/DEC/(95)01. [See also <http://www.ero.dk/doc98/official/Word/DEC9827E.DOC> and/or <http://www.ero.dk/doc98/official/pdf/DEC9827E.PDF> and/or <http://www.ero.dk/doc98/official/zip/DEC9827E.ZIP>.]
- ⁴ See DTI Press Release – 30 April 1999, **PMR 446 Service Introduced in the United Kingdom**, Notes for Editors, Paragraph 5. [See <http://www.radio.gov.uk/publication/press/1999/30apr99b.htm>.]
- ⁵ See **PUBLIC NOTICE**, Report No. 2567, August 8, 2002, and **47 CFR 1.405(b)**.
- ⁶ **COMMENTS**, Steven Karty, August 23, 2002.
- ⁷ **Ibid.**
- ⁸ **COMMENTS**, Robert A. Davisson, August 16, 2002.
- ⁹ **COMMENTS**, Philip E. Galasso, August 26, 2002.
- ¹⁰ **COMMENTS**, Unknown author of 17174 Diamond Acres, Forney, TX 75126, August 19, 2002.
- ¹¹ **COMMENTS**, Dr. Eugene P. Kaiser, Ph.D., MSEE, BSEE, August 23, 2002.
- ¹² **COMMENTS**, ARRL National Association for Amateur Radio, September 9, 2002.
- ¹³ **Ibid.**, at paragraph 3.
- ¹⁴ **Ibid.**, at paragraph 8.
- ¹⁵ **COMMENTS**, Nickolaus E. Leggett, August 20, 2002, page 2.